

TO: \_\_\_\_\_ On (note date): \_\_\_\_\_ Pat. No. 6,753,464

Team Leaders Initials  
INFO SUPPLIED BY: \_\_\_\_\_  
OAC/LDRC Initials

**SECOND REQUEST (DIFFERENT CORRECTIONS), SUPERSEDE OR RECONSIDERATION**  
(OAC OR LDRC, USE A RED PEN FOR COMPLETING INFO, ON THIS COVER SHEET) (11/2002 cbn)

Team Leader, an Office Automation Clerk may assist you by supplying data from CofC Database (Current & History), PALM, and copies from Intranet, to determine type of request (second request, supersede, and/or reconsideration) and to determine if there were any errors made in decisions and/or publishing are attributable. Team Leader, check appropriate boxes below, key record (if necessary) and forward to JCWS, to order file and assign file to an LIE, to EXPEDITE.

Team Leader, DO NOT ORDER FILE.

MRD (for request attached to this cover sheet):   /  /   (Team Leader have LDRC, stamp same MRD on 1050s.)

File Charged to (in PALM): \_\_\_\_\_ Date Charged to Loc.:   /  /  

Information re most recent record in CofC database (Check Current & History)

MRD: 813,104 Examiner (LIE's initials): UT

Date Assigned: 10/26/04 Turned In: 10/27/04

CofC Issued: 11/16/04 CofC Denied:   /  /   Updated: Y / N Date:   /  /  

Patent number listed on C of C listing in OG (circle one) Y / N

CofC Issued for this record is attached to patent on Internet (circle one) Y / N

New/different correction(s) requested. Check Intranet or with RTIS. (circle one) Y / N

☐ Duplicate (same heading and corrections published/issued CofC on Intranet. (circle one) Y / N

☐ Substitute or corrected request. Locate the original request (check with JCWS and RTIS).

☐ Second Request (another) requesting new/different corrections or additional corrections. **TEAM LEADER, DO NOT ORDER FILE.** If necessary, call attorney/applicant for assistance in determining if new/different corrections. Team Leader, key new a record on: 11/15/04. Place and count with CofCs keyed, same week, determine and note in to upper right hand corner if "P", "R", or "RTC".

Mark through any corrections on 1050, that were appropriately published; or JCWS assign to: \_\_\_\_\_

☒ Reconsideration ☐ Supersede ☐ Special CofC ☐ Erratum ☐ Expedite CofC

Team Leader, determine if a Request for a Corrected CofC (Supersede) or Reconsideration, due to error in decisions or keying, attributable to (check the appropriate box, below):

☐ RTIS  
Keying Error

☐ LIE: \_\_\_\_\_  
LIE Processing or  
Decision Error

☐ OFFICE  
Error in Entry of Document  
or Ex. Decision

☐ ATTY.  
1.323 Consideration  
or Petition Required

If errors are attributable to LIE, use guidelines for appropriately notifying the LIE and recording errors (make copies supporting that the LIE made error, attach copies to this cover sheet, keeping copies for your records, and forward copies to CBN, at the end of each month).

☐ JW or OL, locate request for CofC published on:   /  /   and return to: \_\_\_\_\_  
(Circle OAC Initials)

☐ Team Leader keyed record on on: 11/15/04 ☐ Post card Printed by Tasneem  
(Team Leaders, give all second requests to Tasneem, to print a post card.)

☐ JCWS, order file and assign or reassign to LIE/to: \_\_\_\_\_/LIE, see your Team Leader for assistance.

Comments/ Instructions: \_\_\_\_\_

☐ SEE REVERSE SIDE, FOR ADDITIONAL COMMENTS/INSTRUCTIONS

(Revised 12/15/2003 cbn) #4

**MCKEE, VOORHEES & SEASE, PLC**  
**MCKEE, VOORHEES & SEASE, PLC**

ATTORNEYS AT LAW

801 GRAND AVENUE • SUITE 3200 • DES MOINES, IA 50309-2721  
PHONE: 515-288-3667 • FAX: 515-288-1338 • www.ipmvs.comDATE: November 10, 2004TO: Decision and Certificate of Correction  
Branch of the Patent Issue Division

COMPANY: USPTO

PHONE:

FAX: 703-308-6672

FROM: LILA A. T. AKRAD

NUMBER OF PAGES (Including cover): 18Please file the attached REQUEST FOR RECONSIDERATION OF  
CERTIFICATE OF CORRECTION FOR:PATENTEE: WEBER, Gerhard P.  
PATENT NO: 6,753,464 B1  
ISSUED: June 22, 2004  
TITLE: HYBRID MAIZE PLANT & SEED 39M27

Attorney Docket No. P04358US00 - PHI 1247

THE DOCUMENTS ACCOMPANYING THIS FACSIMILE TRANSMITTAL COVER SHEET CONTAIN INFORMATION FROM THE LAW FIRM OF MCKEE, VOORHEES & SEASE WHICH MAY BE CONFIDENTIAL AND/OR LEGALLY PRIVILEGED. THE DOCUMENTS ARE INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE ADDRESSEE IDENTIFIED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT OR AN AGENT RESPONSIBLE FOR DELIVERING THESE DOCUMENTS TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TRANSMITTED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY THIS FIRM SO THAT WE CAN ARRANGE FOR THE RETURN OF THE ORIGINAL DOCUMENTS TO US. THANK YOU.

PATENT  
Attorney Docket No. P04358US00  
PHI 1247

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENTEE: WEBER, Gerhard P.  
PATENT NO: 6,753,464 B1  
ISSUED: June 22, 2004  
TITLE: HYBRID MAIZE PLANT AND SEED 39M27

REQUEST FOR RECONSIDERATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
ATTN: Decision and Certificate of Correction  
Branch of the Patent Issue Division

Dear Sir:

In response to the Decisions and Certificate of Correction Letter dated October 27, 2004, denying the Request for correction to the error found in column 30, line 13, please find enclosed a copy of the Letter Accompanying Amendment After Allowance (37 C.F.R. § 1.312) filed March 18, 2004. The correct information is shown on page 2, lines 7-8 of this Amendment. Also enclosed is a copy of the postcard receipt with this amendment.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the  
ATTN: Decision and Certificate of Correction  
Branch of the Patent Issue Division  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

Date:

11/10/2004

FACSIMILE

☒ transmitted by facsimile to the Patent  
and Trademark Office, Art Unit 2632  
at Fax No. (703) 308-6672

ATTN: Decision and Certificate of Correction  
Branch of the Patent Issue Division

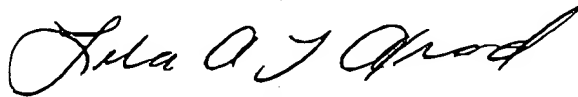
  
Lila A. T. Akrad

Applicant respectfully submits the error revealed in the Certificate of Correction filed July 29, 2004 properly corrected an error made by the Patent Office in the issued U. S Patent No. 6,753,464 B1 as evidenced by the attached documents.

Applicant therefore respectfully asserts the error in column 30, line 13 is in accordance with the record and request acceptance of the Certificate of Correction filed July 29, 2004 in totality.

Please charge Deposit Account No. 26-0084 the amount of \$100.00 for this reconsideration. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



Lila A. T. Akrad, Reg. No. 52,550  
McKee, Voorhees & Sease, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309-2721  
Phone No. (515) 288-3667  
Facsimile No. (515) 288-1338

**CUSTOMER NO: 27142**  
Attorneys of Record

- bja -



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

Date: October 27, 2004

Lila A. T. Akrad  
McKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, IA 50309-2721

Patent No: 6753464 B1  
Applicant: Gerhard P. Weber  
Issued: June 22, 2004  
Title: HYBRID MAIZE PLANT AND SEED

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Respecting the alleged error in column 30, line 13, inspection of the application file reveals it is printed in accordance with the record. There being no fault on the part of the Patent Office, it has no authority to issue certificate of correction (s) under United States Code of Federal Regulation (C.F.R.) 1.322.

In view of the foregoing, your request in this matter is hereby **denied**.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Requests for Reconsideration should be accompanied by appropriate fee, which is presently \$100. Additional support (e.g. copy of amendments, post card receipts, containing requested data or changes) and/or brief statements of facts, as requested, may also be submitted.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

Virginia Tolbert  
For Cecelia Newman, Supervisor  
Decisions and Certificate of Correction  
(703) 305-8309 or 305-1882

vt

March 18, 2004

Attorney Docket No. P04358US00  
PHI 1247

INVENTOR: WEBER, Gerhard Peter  
SERIAL NO. 09/490,312  
FILED: January 24, 2000  
TITLE: HYBRID MAIZE PLANT & SEED 39M27

Please acknowledge receipt:

Letter Accompanying Amendment After Allowance  
(37 C.F.R. § 1.312) – (9 pages)

-LATA/mlw



PATENT

Attorney Docket No. P04358US00

PHI-1247

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENTEE: WEBER, Gerhard P.  
PATENT NO: 6,753,464 B1  
ISSUED: June 22, 2004  
TITLE: HYBRID MAIZE PLANT & SEED 39M27

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT  
FOR PTO MISTAKE (37 CFR § 1.322(a))

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
ATTN: Decision and Certificate of Correction  
Branch of the Patent Issue Division

Dear Sir:

Attached, in duplicate, is Form PTO-1050, with at least one copy being suitable for printing.

The exact page and line number where the errors are shown correctly in the application file are:

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CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

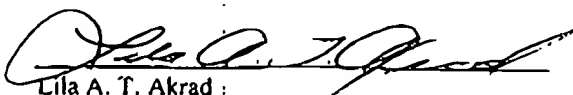
## MAILING

☒ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the  
ATTN: Decision and Certificate of Correction  
Branch of the Patent Issue Division  
Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450.

## FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office, Art Unit 2632  
at Fax No. (703) 872-\_\_\_\_\_

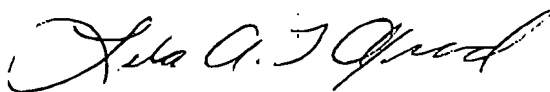
Date:

7/29/04  
Lila A. T. Akrad

Page 2, lines 8 and 14; page 4, lines 2 and 26; page 5, line 1; page 6, lines 17, 21 and 24;  
page 7, lines 6, 7, 13, 18 and 30; and page 8, lines 10, 16, 18 and 23 of the Letter Accompanying  
Amendment After Allowance filed March 18, 2004

Please send the Certificate to: Lila A. T. Akrad, McKee, Voorhees & Scase, P.L.C., 801  
Grand Avenue, Suite 3200, Des Moines, IA 50309-2721.

Respectfully submitted,



Lila A. T. Akrad, Reg. No. 52,550  
MCKEE, VOORHEES & SEASE, P.L.C.  
801 Grand Avenue, Suite 3200  
Des Moines, Iowa 50309-2721  
Phone No. (515) 288-3667  
**CUSTOMER NO: 27142**  
Attorneys of Record

- bja -



PTO/SB/44 (05-03)

Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION

PATENT NO : 6,753,464 B1  
 DATED : June 22, 2004  
 INVENTOR(S) : WEBER, Gerhard P.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 30, line 13:  
 the ATCC on ~~May 13~~ May 3, 2002, May 6, 2002 and May 6, 2002,

Column 30, line 23:  
 to 37 C.F.R. § ~~1,808~~ 1.808, sample(s) of the deposit of at least 2500

Column 30, line 64:  
 maize parent ~~plants~~ plant and harvesting the resultant F1 hybrid

Column 31, line 20:  
 selected from the group consisting of: ~~imidazalinone~~ imidazolinone, sul-

Column 31, line 21-22:  
 fonylurea glyphosate, glufosinate, L-phosphinothricin, ~~tra~~ tria-  
 zine and benzonitrile.

Column 31, line 26:  
 samples of which have been deposited as ~~PTA-4281~~ PTA-4281 and

Column 32, line 9:  
 ological and morphological ~~characteristic~~ characteristics of the hybrid ~~main~~ maize

Column 32, line 13:  
 maize ~~line 39NM27~~ variety 39M27 comprising:

MAILING ADDRESS OF SENDER:

PATENT NO. 6,753,464 B1

(page 1)

Lila A. T. Akrad, Reg. No. 52,550  
 McKee, Voorhees & Sease, P.L.C.  
 801 Grand Avenue, Suite 3200  
 Des Moines, IA 50309-2721

No. of additional copies



This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/44 (05-03)

Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.  
(Also Form PTO-1050)

# UNITED STATES PATENT AND TRADEMARK OFFICE

## CERTIFICATE OF CORRECTION

PATENT NO : 6,753,464 B1  
 DATED : June 22, 2004  
 INVENTOR(S) : WEBER, Gerhard P.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 32, line 18:

another maize line that comprises a desired ~~trait~~trait to

Column 32, line 37:

hybrid maize ~~line~~variety 39M27 with the desired trait and all

Column 32, line 39:

of hybrid maize ~~line~~variety 39M27 listed in Table 1 as

Column 32, line 44:

morphological characteristics of hybrid maize ~~line~~variety 39M27

Column 32, line 50:

~~imidazalinone~~imidazolinone, sulfonylurea, glyphosate, glufosinate,

Column 32, line 60:

maize ~~line~~variety 39M27 comprising:

Column 33, line 7:

eny ~~pants~~plants;

Column 34, line 1:

hybrid maize ~~line~~variety 39M27 that comprises said nucleic

Column 34, line 3:

physiological characteristics of hybrid maize ~~line~~variety

Column 34, line 10:

hybrid maize ~~line~~variety 39M27 listed in Table 1 as determined at

MAILING ADDRESS OF SENDER:

PATENT NO. 6,753,464 B1

(Page 2)	Lila A. T. Akrad, Reg. No. 52,550 McKee, Voorhees & Sease, P.L.C. 801 Grand Avenue, Suite 3200 Des Moines, IA 50309-2721	No. of additional copies  ➡
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This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : WEBER, Gerhard P.  
SERIAL NO : 09/490,312  
FILED : January 24, 2000  
TITLE : HYBRID MAIZE PLANT & SEED 39M27

Grp./A.U. : 1638  
Examiner : MEHTA, Ashwin D.  
Conf. No. : 6990  
Docket No. : P04358US00 PHI 1247

LETTER ACCOMPANYING  
AMENDMENT AFTER ALLOWANCE  
(37 C.F.R. § 1.312)

Commissioner for Patents  
Mail Stop ISSUE FEE  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Entry of the following Amendment After Allowance is respectfully requested.

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CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:


## MAILING

☒ deposited with the United States Postal  
Service with sufficient postage as First Class  
mail in an envelope addressed to the  
Commissioner for Patents,  
Mail Stop ISSUE FEE, P.O. Box 1450  
Alexandria, VA 22313-1450.

Date: 3/18/04

## FACSIMILE

☐ transmitted by facsimile to the Patent  
and Trademark Office, Art Unit 1638  
at Fax No. (703) 872-\_\_\_\_\_.

  
Lila A. T. Akrad

**Amendments to the Specification**

Please replace the paragraph at page 37, beginning at line 2, under the heading **DEPOSITS** with the following:

Applicant(s) have made a deposit of at least 2500 seeds of hybrid maize plant 39M27 and inbred parent plants GE516214 and GE533139 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Va. 20110-2209 USA, ATCC Deposit Nos. PTA-4269, PTA-4281 and PTA-4283, respectively. The seeds deposited with the ATCC on ~~May 13, 2002~~ May 3, 2002, May 6, 2002 and May 6, 2002, respectively were taken from the deposit maintained by Pioneer Hi-Bred International, Inc., 800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340, since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make available to the public, pursuant to 37 C.F.R. § 1.808, sample(s) of the deposit of at least 2500 seeds of hybrid maize plant 39M27 and inbred parent plants GE516214 and GE533139 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209. This deposit of seed of hybrid maize plant 39M27 and inbred parent plants GE516214 and GE533139 will be maintained in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. Additionally, Applicant(s) have satisfied all the requirements of 37 C.F.R. §§ 1.801 - 1.809, including providing an indication of the viability of the sample upon deposit. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of its rights granted under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.).

Amendments to the Claims

Claim 1 (Previously presented): Seed of hybrid maize variety designated 39M27, representative seed of said variety having been deposited under ATCC Accession number PTA-4269.

Claim 2 (Previously presented): A maize plant, or a part thereof, produced by growing the seed of claim 1.

Claim 3 (Original): Pollen of the plant of claim 2.

Claim 4 (Original): An ovule of the plant of claim 2.

Claims 5-61 (Canceled)

Claim 62 (Previously presented): A tissue culture of regenerable cells produced from the plant of claim 2.

Claim 63 (Previously presented): Protoplasts produced from the tissue culture of claim 62.

Claim 64 (Previously presented): The tissue culture of claim 62, wherein cells of the tissue culture are from a tissue selected from the group consisting of leaf, pollen, embryo, root, root tip, anther, silk, flower, kernel, ear, cob, husk and stalk.

Claim 65 (Previously presented): A maize plant regenerated from the tissue culture of claim 62, said plant having all the morphological and physiological characteristics of hybrid maize plant 39M27, representative seed of said plant having been deposited under ATCC Accession No. PTA-4269.

Claim 66 (Previously presented): A method for producing an F1 hybrid maize seed, comprising crossing the plant of claim 2 with a different maize plant and harvesting the resultant F1 hybrid maize seed.

Claim 67 (Previously presented): A method of producing a male sterile hybrid maize plant comprising transforming at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a nucleic acid molecule that confers male sterility and crossing said inbred maize parent plants to produce said male sterile hybrid maize plant.

Claim 68 (Previously presented): A male sterile maize hybrid plant produced by the method of claim 67.

Claim 69 (Previously presented): A method of producing an herbicide resistant hybrid maize plant comprising transforming at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a transgene that confers herbicide resistance to generate an herbicide resistant inbred maize parent plant and crossing said inbred maize parent plants to produce said herbicide resistant hybrid maize plant.

Claim 70 (Previously presented): An herbicide resistant hybrid maize plant produced by the method of claim 69.

Claim 71 (Previously presented): The herbicide resistant hybrid maize plant of claim 70, wherein the transgene confers resistance to an herbicide selected from the group consisting of: imidazolinone, sulfonylurea, glyphosate, glufosinate, L-phosphinothricin, triazine and benzonitrile.

Claim 72 (Previously presented): A method of producing an insect resistant hybrid maize plant comprising transforming at least one of inbred maize parent plants GE516214 and

GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a transgene that confers insect resistance to generate an insect resistant inbred maize parent plant and crossing said inbred maize parent plants to produce said insect resistant hybrid maize plant.

Claim 73 (Previously presented): An insect resistant maize plant produced by the method of claim 72.

Claim 74 (Previously presented): The insect resistant maize plant of claim 73, wherein the transgene encodes a *Bacillus thuringiensis* endotoxin.

Claim 75 (Previously presented): A method of producing a disease resistant hybrid maize plant comprising transforming at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a transgene that confers disease resistance to generate a disease resistant inbred maize parent plant and crossing said inbred maize parent plants to produce said disease resistant hybrid maize plant.

Claim 76 (Previously presented): A disease resistant hybrid maize plant produced by the method of claim 75.

Claim 77 (Previously presented): A method of producing a hybrid maize plant with decreased phytate content comprising transforming at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a transgene encoding phytase to generate an inbred maize parent plant with decreased phytate content and crossing said inbred maize parent plants to produce said hybrid maize plant that confers decreased phytate content.

Claim 78 (Previously presented): A hybrid maize plant with decreased phytate content produced by the method of claim 77.

Claim 79 (Previously presented): A method of producing a hybrid maize plant with modified fatty acid metabolism or modified carbohydrate metabolism comprising transforming at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited as PTA-4281 and PTA-4283 respectively, with a transgene encoding a protein selected from the group consisting of stearyl-ACP desaturase, fructosyltransferase, levansucrase, alpha-amylase, invertase and starch branching enzyme to generate an inbred maize parent plant with modified fatty acid metabolism or modified carbohydrate metabolism and crossing said inbred maize parent plants to produce said hybrid maize plant that confers modified fatty acid metabolism or modified carbohydrate metabolism.

Claim 80 (Previously presented): A hybrid maize plant produced by the method of claim 79.

Claim 81 (Previously presented): The hybrid maize plant of claim 80 wherein the transgene confers a trait selected from the group consisting of waxy starch and increased amylose starch.

Claim 82 (Previously presented): A maize plant, or part thereof, having all the physiological and morphological characteristics of the hybrid maize plant 39M27, representative seed of said plant having been deposited under ATCC Accession No. PTA-4269.

Claim 83 (Currently amended): A method of introducing a desired trait into a hybrid maize line variety 39M27 comprising:

(a) crossing at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited under ATCC Accession Nos. as PTA-4281 and PTA-4283 respectively, with another maize line that comprises a desired trait, to produce F1 progeny plants, wherein the desired trait is selected from the group consisting of male sterility, herbicide resistance, insect resistance, disease resistance and waxy starch;

(b) selecting said F1 progeny plants that have the desired trait to produce selected F1 progeny plants;

(c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;



(d) selecting for backcross progeny plants that have the desired trait and morphological and physiological characteristics of said inbred maize parent plant;

(e) repeating steps (c) and (d) three or more times in succession to produce selected fourth or higher backcross progeny plants;

(f) crossing said fourth or higher backcross progeny plant with the other inbred maize parent plant to generate a hybrid maize ~~line~~ variety 39M27 with the desired trait and all of the morphological and physiological characteristics of hybrid maize ~~line~~ variety 39M27 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 84 (Currently amended): A plant produced by the method of claim 83, wherein the plant has the desired trait and all of the physiological and morphological characteristics of hybrid maize ~~line~~ variety 39M27 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 85 (Previously presented): The plant of claim 84 wherein the desired trait is herbicide resistance and the resistance is conferred to an herbicide selected from the group consisting of: imidazolinone, sulfonylurea, glyphosate, glufosinate, L-phosphinothricin, triazine and benzonitrile.

Claim 86 (Previously presented): The plant of claim 84 wherein the desired trait is insect resistance and the insect resistance is conferred by a transgene encoding a *Bacillus thuringiensis* endotoxin.

Claim 87 (Previously presented): The plant of claim 84 wherein the desired trait is male sterility and the trait is conferred by a cytoplasmic nucleic acid molecule that confers male sterility.

Claim 88 (Currently amended): A method of modifying fatty acid metabolism, phytic acid metabolism or carbohydrate metabolism in a hybrid maize ~~line~~ variety 39M27 comprising:

(a) crossing at least one of inbred maize parent plants GE516214 and GE533139, representative samples of which have been deposited under ATCC Accession Nos. as PTA-4281 and PTA-4283 respectively, with another maize line that ~~comprise~~comprises a nucleic acid molecule encoding an enzyme selected from the group consisting of phytase, stearyl-ACP desaturase, fructosyltransferase, levansucrase, alpha-amylase, invertase and starch branching enzyme;

(b) selecting said F1 progeny plants that have said nucleic acid molecule to produce selected F1 progeny plants;

(c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;

(d) selecting for backcross progeny plants that have said nucleic acid molecule and morphological and physiological characteristics of said inbred maize parent plant;

(e) repeating steps (c) and (d) three or more times in succession to produce selected fourth or higher backcross progeny plants;

(f) crossing said fourth or higher backcross progeny plant with the other inbred maize parent plant to generate a hybrid maize ~~line~~ variety 39M27 that comprises said nucleic acid molecule and has all of the morphological and physiological characteristics of hybrid maize ~~line~~ variety 39M27 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 89 (Currently amended): A plant produced by the method of claim 88, wherein the plant comprises the nucleic acid molecule and has all of the physiological and morphological characteristics of hybrid maize ~~line~~ variety 39M27 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 90 (Previously presented): A method for producing a maize seed, comprising crossing the plant of claim 2 with itself or a different maize plant and harvesting the resultant maize seed.

**REMARKS**

The foregoing amendments to the specification and to the claims of this application provide compliance with the allowable claim set as suggested by Supervisory Patent Examiner Amy Nelson on November 7, 2003.

Applicant respectfully submits as shown in the amendments to the specification and to the claims, these corrections are needed for proper disclosure and protection of the invention and require no substantial amount of additional work on the part of the PTO. No new matter has been added. Applicant respectfully requests consideration of the following remarks.

In addition, Applicant submits the issue fee is being paid separately on the following business day.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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